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## LEE KWEE FOH SDN BHD v. PENTADBIR TANAH DAERAH BATANG PADANG

HIGH COURT MALAYA, IPOH
ANSELM CHARLES FERNANDIS JC
[ORIGINATING SUMMONS NO: AA-24NCVC-470-10-2017]
B 26 OCTOBER 2018

***LAND LAW:*** *Forfeiture – Setting aside – Application for – Land revenue not paid to State – Land Administrator declared land to be forfeited and issued notice of forfeiture – Allegation by registered owner of land that endorsement of title in notice* C *was fundamentally defective as it referred to another lot – Whether information on endorsement accurate – Whether rendered service of notices of forfeiture ineffective – National Land Code, ss. 97, 98, 100, 130, 418 & 432*

The appellant was the registered owner of a piece of land measuring 575 D acres ('the land'). The revenue to the State, in respect of the land, had not been paid since 2006 and in 2013, the respondent issues a statutory notice of demand for the rent in Form 6A under ss. 97 and 98 of the National Land Code ('the NLC'). It was stated that the total amount owed by the appellant to the respondent was RM156,596. In 2017, the respondent, by an order under s. 100 of the NLC, declared the land to be forfeited and issued a notice E under Form 8A pursuant to s. 130 of the NLC for the forfeiture of the entire land. Prior to all this, the appellant had been struck off the Companies Register by the Registrar of Companies and consequently, the appellant ceased to exist. As such, the appellant did not have the *locus standi* to commence or defend any action for or against it. According to the appellant, F it was because of this situation that it was unable to receive any letters or documents from the respondent. However, the appellant's director commenced an action at the High Court to reinstate the appellant. The High Court granted an order to restore the appellant to the Companies Register. The appellant then filed with the Registrar of Companies its financial G statement and other records and it was in the course of doing this that the appellant discovered that the land had been forfeited. The appellant applied for an extension of time to file an appeal at the High Court, pursuant to s. 418 of the NLC, against the respondent's decision. The High Court allowed the application and pursuant to the extension of time given, the appellant proceeded to file the present appeal to set aside the order of H forfeiture by the respondent and the Form 8A notice. In support of its appeal, the appellant submitted that (i) the endorsement on the title in respect of service of Borang 6A notice was fundamentally defective as it referred to another lot; (ii) the service of Forms 6A and 8A notices were ineffective; and (iii) there existed the RPT Tronoh and the Water Catchment Reserve on the I land.

**Held (allowing appeal):**

**(1)** The land title clearly indicated that the appellant was the registered owner of the land before the forfeiture and cancellation of the land title. The land title also stated that the land was registered under the Computerised Land Registration System ('CLRS') in 2002. It was authenticated by the seal and signature of the Land Administrator Perak. The respondent admitted that there was a mistake on their part in omitting certain details in the land during the conversion to the CLRS. This could never be a reason to cancel Lot 1284 from the title register. The respondent could not blame the system for their mistakes if ever there was one. They have the public duty to ensure that the land administration in this country is done efficiently and with integrity. (paras 33-34)

**(2)** The *gazette* number endorsed on the title to the land referred to a completely different and unrelated lot. Therefore, the service of Form 6A notice and the endorsement on the title was defective. This would have the result of effectively rendering the whole forfeiture process flawed as well. In referring to a *gazette* notification unrelated to the land, the respondent had not complied with, *inter alia*, ss. 97, 100 and 432 of the NLC. The order by the respondent under s. 100 of the NLC, the notice under Form 8A and the endorsement on the title must be set aside. (paras 41-42)

**(3)** It was not disputed that the RPT Tronoh and the water catchment had occupied part of the land before the forfeiture notice was issued. Such occupation was not taken into account in Forms 6A and 8A issued by the respondent. The size of the said land had been reduced drastically when chunks of it were taken up by the RPT Tronoh and the water catchment. The total area of the said land was not as stated in the Form 8A notice. The total area of the area, as stated in the Form 8A notice was 575 acres. The total land area had been reduced to only 296.46 acres at the time the Form 8A notice was issued. The respondent was required to state the correct and accurate information pertaining to the land intended to be forfeited as well as the exact amount due to the respondent. (paras 44 & 46)

**Case(s) referred to:**

*Khoo Cheng & Ors v. Pentadbir Tanah Muar [2008] 3 CLJ 534 HC* ***(refd)***

*Malayan Banking Bhd lwn. Pentadbir Tanah Daerah Batu Pahat & Satu Lagi [2011] 1 LNS 307 HC* ***(refd)***

*Overseas Realty Sdn Bhd v. Wong Yau Choy & Ors; Tetuan Tay Ibrahim & Partners (Third Party) [2014] 8 CLJ 107 HC* ***(refd)***

*Pow Hing & Anor v. Registrar of Titles, Malacca [1980] 1 LNS 120 FC* ***(refd)***

**Legislation referred to:**
Companies Act 1965, s. 308(5)
Federal Constitution, art. 13
Interpretation Acts 1948 And 1967, s. 18(2), (3)
National Land Code, ss. 46, 97, 98, 100, 130, 340, 418, 432(1)(a)(i), (ii), (b), Fourteenth Schedule paras 16, 17

*For the appellant - Arumugam C Suvalingam; M/s Aru & Co*
*For the respondent - Suhaila Haron & Teoh Ching Chong; State Legal Advisor, Perak*

*Reported by Najib Tamby*

## JUDGMENT

**Anselm Charles Fernandis JC:**

**Introduction**

**[1]** The appellant was the registered owner of all that piece of land known as Hakmilik GRN 61269 No. Lot 1284, Mukim, Tempat dan Daerah Batang Padang, Perak (the said land). The said land had a total area of 575 acres or equivalent to 232.9974 hectares.

**[2]** The revenue due to the State in respect of the land was not paid since 2006. On 18 June 2013 the Pentadbir Tanah Daerah Batang Padang issued a statutory notice of demand for the rent in Borang 6A under ss. 97 and 98 of the National Land Code (NLC). It was stated there that the total amount owed by the appellant to the respondent was RM156,596. There is an endorsement to the land title with regard to the gazetting of the Borang 6A in the Perak Government *Gazette* "Warta 1628 bertarikh 15 Ogos 2013".

**[3]** On 13 November 2013 the Pentadbir Tanah Daerah Batang Padang by order under s. 100 of the NLC declared the said land to be forfeited. On the same date the Pentadbir Tanah issued a notice (Borang 8A) pursuant to s. 130 of the NLC for the forfeiture of the entire 232.9974 hectares of the said land.

**[4]** Prior to all this, the appellant had been struck off the Companies Register by the Registrar of Companies. The consequence of this was that the appellant company cease to exist. As such they did not have the *locus standi* to commence or defend any action for or against it. The appellant states that it was because of this situation that they were unable to receive any letters or documents from the respondent.

**[5]** The appellant however had commenced an action to reinstate and revive itself. An originating summons was filed by Tokeran bin Sidek, who was a director of the appellant company in the High Court of Kuala Lumpur *via* Originating Summons No. WA-24NCC-223-05-2016. On 28 August 2016 the Kuala Lumpur High Court granted an order to restore the appellant

to the Companies Register by virtue of s. 308(5) of the Companies Act 1965. In this respect, it would be appropriate to refer to the relevant provision of the then Companies Act 1965 which states as follows:

> 308(5) If any person feels aggrieved by the name of the company having been struck off the register, the Court on an application made by the person at any time within fifteen years after the name of the company has been so struck off may, if satisfied that the company was, at the time of the striking off, carrying on business or in operation or otherwise that it is just that the name of the company be restored to the register, order the name of the company to be restored to the register, *and upon an office copy of the order being lodged with the Registrar the company shall be deemed to have continued in existence as if its name had not been struck off, and the Court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.* (emphasis added)

**[6]** The effect of restoring the appellant to the Companies Register was to put the appellant in a position as though it was never been struck off. The appellant had also to file with the Registrar of Companies its financial statement and other records as required by the Companies Act 1965. It was in the course of doing this that the appellant realised the said land had been forfeited to the Government in 2013. Following the restoration to the Companies Register, the appellant took steps to reorganise and manage the appellant's assets.

**[7]** In 2017, the appellant had applied for an extension of time to file an appeal under s. 418 of the NLC against the Land Administrator's decision to seize and forfeit the said land. In Originating Summons AA-24NCvC-640-12-2016 the High Court allowed the extension of time. The arguments presented by the appellant there were, in essence, the same as that argued in this appeal. From the records, there was no appeal from the decision for the extension of time. Pursuant to the extension of time being given, the appellant then filed this appeal.

**[8]** The appellant asserted that they were the registered owner of the said land before the forfeiture order by the respondent. They further contended that by virtue of s. 340 of NLC, they had an indivisible title to the land. Evidence was adduced that the title had been transferred by one Lee Kwee Foh to Lee Kwee Foh Limited since 25 August 1949 by virtue of No. Perserahan 1599/49 which was exhibited as "TS1" in the affidavit of Tokeran bin Sidek deposed on 27 October 2017 (the affidavit in support).

**The Appeal**

**[9]** In this appeal, the appellant seeks only to set aside the order of forfeiture by the Pentadbir Tanah and the Borang 8A notice.

**[10]** The reasons for the setting aside of the forfeiture order are set out in the affidavit in support. These reasons can be summarised as follows:

(i) the existence of the RPT Tronoh and the water catchment reserve on the said land;

(ii) the endorsement on the title in respect of service of the Borang 6A notice was fundamentally defective as it referred to another lot;

(iii) the ineffective service of the Borang 6A and Borang 8A notices.

*The Existence Of The RPT Tronoh And The Water Catchment Reserve On The Said Land*

**[11]** During the cause of the application of extension of time, the first respondent confirmed by virtue of letter dated 18 July 2017 issued by the Pejabat Pengarah Tanah dan Galian Perak a sizable portion of the said land had been utilised for the Rancangan Perkampungan Tersusun Tronoh Mines (RPT Tronoh Mines). The said letter also confirmed that part of the land had been utilised for a water catchment reserve and was under the management of Jabatan Pengairan dan Saliran. There was no dispute as to the contents of this letter. A copy of the letter is exhibited in the affidavit in support as "TS7".

**[12]** Apart from that, there was also an affidavit filed by the respondent and affirmed by one Azlan bin Sharif dated 4 August 2017. There he deposed that in a letter dated 9 November 2007 from the Pengarah Tanah dan Galian Perak to the Pentadbir Tanah Batang Padang it was stated that the State Government had decided in a meeting held on 19 September 2007 to allocate a total of 33 acres of the said land for the RPT Tronoh Mines project. In addition, there was an agreement between the State Government and a developer before the development of the RPT Tronoh took place to develop the infrastructure on that part of the said land where the RPT Tronoh was situated. It was also agreed that ten lots or ten percent of the lots allocated to the State Government, whichever is lower was set aside as the quota of the Menteri Besar of Perak.

**[13]** The appellant was shocked to also find out that individual land titles had been issued to the participants of RPT Tronoh Mines. A total of 34 titles were registered for the RPT Tronoh in 2011 and a further title issued in 5 August 2013. All these titles were issued before the issuance of the forfeiture notice in Borang 8A on 13 November 2013.

**[14]** The water catchment on the said land was gazetted as such by the virtue of "Warta No. GN 1059 on 30 July 1992". The *Gazette* is shown as exh. "TS11" of the affidavit in support. The water catchment occupied a total land area of 245.54 acres.

**[15]** The appellant asserts that it was illegal for the RPT Tronoh Mines and water catchment area to be on the said land while they were still the registered owner of the land.

**[16]** It was further argued that the appellant had not received any notification or information as to the use of the said land for the RPT Tronoh or the water catchment.

**[17]** Learned counsel further elaborated that in the circumstances of the case, the Pejabat Tanah had, in all these years, overcharged the appellant for the revenue due. The amount to be paid ought to be a smaller sum to correspond with the diminution of the land size. They argue the amount claimed by the respondent was therefore excessive as well as illegal.

*The Wrong Gazette Number In Respect Of The Service And Endorsement Of The Notice 6A*

**[18]** The next issue argued by the appellant was that the whole forfeiture process was flawed. It is a statutory requirement that a note of the service of the Borang 6A be endorsed on the document of title. Section 97 of the NLC states as follows:

> 97. Notice of demand.
>
> (1) Where any rent payable in respect of any alienated land is in arrear, the Collector may cause to be served on the proprietor thereof a notice of demand in Form 6A.
>
> (2) A note of the service of any such notice shall be endorsed, by or at the instance of the Collector, on the register document of title to the land to which the notice relates.

**[19]** The substituted service of notice 6A under s. 432 of the NLC was *Gazetted* in the State Government *Gazette* as "Warta 1628 bertarikh 15 Ogos 2013". This can be clearly seen endorsed on the title to the said land at exh. "TS10" in the affidavit in support. The said endorsement was worded as follows:

> No Pers 1689/2013 Notis cukai tidak dibayar (Notis 6A)
>
> telah disampaikan melalui **Seksyen 432 KTN** mengikut pemberitahuan **warta no: 1628 bertarikh 15 Ogos 2013** didaftarkan pada 06 September 2013 jam 08:28:11 pagi
> (No Rujukan Fail: PTG.PK.143/2013 JLD.2(A))
>
> (emphasis added)

**[20]** Counsel for the appellant however pointed out the *Gazette* dated 15 August 2013 (exh. TS13) showed that "Warta 1628" was concerned with another land and had nothing to do with the said land.

**[21]** The appellant argues that the service of the notice as well as the endorsement on the title was therefore bad and he had been deprived of his land in a manner which was not in accordance with the law.

**The Ineffective Service Of The Borang 6A Notice And Borang 8A And Other Documents**

**[22]** The appellant contends that since the appellant had been "dissolved", there was no effective service of the Borang 6A and Borang 8A notices and other documents on the appellant. The said notices were sent to the registered address of the appellant at "33 Beach Street, Penang, Pulau Pinang". The premises was occupied by Ten Yee Tee Trading Sdn Bhd as evinced in the affidavit in support at exh. "TS17".

**[23]** It was stressed by the appellant that the respondent did not make any attempt to do a company search which would reveal that the appellant was in fact dissolved and inactive. The appellant further contends that there was no sincere effort to serve the relevant documents on the appellant. The photographs purportedly showing the various places where the notices were placed were so unclear that they created a doubt as to whether the proper service was effected.

**[24]** The respondent countered the appellant's arguments by stating that:

(i) there was effective service of the relevant documents on the appellant;

(ii) the burden was on the appellant to inform the respondent that it had been dissolved;

(iii) the said land no longer existed as Lot 1284 in the official records of the Department of Survey and Mapping (JUPEN).

**[25]** According to the respondent, Lot 1284 had been changed to Lot 6167 with the exclusion of the Sungai Batang Padang reserve. A mining lease had been issued to the appellant in 1965. Consequently, a mining certificate number 1/65 was issued. The mining certificate was transferred to Tronoh Mines Limited on 29 October 1965.

**[26]** There were subsequent renewals of the mining lease. According to the respondent, there were no further renewals after the mining certificate expired in 30 June 2009.

**[27]** In the course of time "Lot 6167" was divided to up to create Lot 10776, Lot 13303 and another lot which was unnumbered.

**[28]** The water catchment was on Lot 10776. The RPT Tronoh Mines was on the unnumbered lot. As for Lot 13303, it was given to Tronoh Mines (M) Sdn Bhd for mining purposes.

**[29]** After the mining lease had expired in 2009 "Lot 6167" reverted to the Government. This was in accordance with s. 46 of the NLC.

**[30]** There was an oversight and this transaction was not endorsed on the title of the said land at the time of the conversion to the Computerised Land Registration System.

**[31]** According to learned counsel for the respondent, the only reason why the said land under the description of Lot 1284 was still shown on the title was because there was a mistake on the part of the respondent during the conversion to the Sistem Pendaftaran Tanah Berkomputer or Computerised Land Registration System. The respondent asserts that the appellant had transferred the mining certificate 1/65 on Lot 6167 to Tronoh Mines on 29 October 1965. Since it was mining land, the lease had already expired and reverted to the State.

**Finding Of The Court**

**[32]** In considering the respondent's argument as to the existence of Lot 1284, I had taken into account the multitude of documents from the respondent themselves where "Lot 1284" had been referred to. The documents concerned are set out in the appellant's additional submission at pp. 6, 7 and 8. The three most important documents that referred to "Lot 1284" were the "Borang 6A notice" and the "Borang 8A notice" and the forfeiture order itself dated 13 November 2013 all of which are exhibited as exh. "TS3" in the appellant's affidavit in support. I am of the view that the basis for the respondent to issue these notices is the existence of the said land that is "Lot 1284". To say that the said land does not exist therefore goes against the evidence which was presented by the respondent themselves.

**[33]** A perusal of the said land title dated 9 May 2014 at exh. "TS10" in the affidavit in support clearly indicates the appellant was the registered owner of the said land before the forfeiture and cancellation of the land title. The land title also states that the said land was registered under the Computerised Land Registration System on 20 August 2002. The lot number concerned was stated as "Lot 1284" together attached clearly states that was the plan of "Lot 1284". It is authenticated by the seal and signature of the Land Administrator Perak. Significantly it is in the form of "Borang 5BK" which means that the land grant is in perpetuity or "selama-lamanya". As to the conclusiveness of exh. "TS10" paras. 16 and 17 of the Fourteenth Schedule of the NLC entitled "Computerised Land Registration System" specifically states as follows:

> 16. New computer printed document of title.
>
> Upon making the memorial in the manner provided in paragraph 15 where it relates to a dealing or upon determining that any other matter shall be entered into any document of title, the Registrar shall cause a new computer printed register document of title and, where appropriate, a new computer printed issue document of title, to be prepared.

17. Conclusiveness of registration.

Every register document of title prepared pursuant to paragraph 16 and authenticated under the hand and seal of the Registrar **shall be conclusive evidence of the registration to which it refers and the effective time and date thereof**. (emphasis added)

**[34]** The respondent admitted that there was a mistake on their part in omitting certain details in the land title during the conversion to the Computerized Land Registration System. To my mind, this can never be a reason to cancel Lot 1284 from the title register as submitted by learned counsel for the respondent. I am of the opinion that the respondent cannot blame the system for their mistakes if ever there was one. They have the public duty to ensure that the land administration in this country is done efficiently and with integrity. In this respect, I can do no better than to reproduce what had been said by Harmindar Singh Dhaliwal J (as he then was) in *Overseas Realty Sdn Bhd v. Wong Yau Choy & Ors; Tetuan Tay Ibrahim & Partners (Third Party)* [2014] 8 CLJ 107 when commenting on the responsibilities of the Land Office. In that case, he succinctly stated:

> The (defendants) ... owe a duty of care to members of the public and landowners to maintain a proper land register as well as to stringently comply with the provisions of the NLC to protect landowners' interests. Public trust and confidence in the Torrens system of land registration will be undermined and eroded if the integrity of the system is compromised.

**[35]** The respondent had argued that the appellant's case totally dependent on the "geran batal" which is exh. "TS10" of the affidavit in support and therefore unsustainable. I however observe that the word "batal" or cancelled was inserted because of the very same forfeiture order which is now being challenged. This appeal itself therefore negates the respondent's argument. Further I find that the appellant had sufficiently proven that they were the registered owners of the said land before the respondent commenced the forfeiture proceedings. In this respect, I refer to exh. "TS1" of the appellant's affidavit in support where in a memorial dated 25 August 1949 it states that the said land was transferred from Lee Kwee Foh to Lee Kwee Foh Limited. There it is stamped that the document of title is continued ("disambung") and is replaced with the computerised land title which is at "TS10" of the same affidavit.

**[36]** Taking into consideration the numerous documents emanating from the respondent themselves describing the said land as "Lot 1284" I find that Lot 1284 was still in existence in the Computerised Land Registration System at the time of the forfeiture. I also observe that the contents of "TS10" as conclusive.

**[37]** In my assessment of things, even if "Lot 1284" had indeed ceased to exist, as contended by the respondent, the result would be that the said "Borang 6A" and the "Borang 8A" notices would have been issued premised on a non-existent lot and that by itself would make these notices devoid of any legal basis and liable to be set aside.

**[38]** In respect to the endorsement of the land title, I have examined the endorsement as exhibited at "TS10". It is clear that the respondent had attempted to effect substitute service by ostensibly having the Borang 6A notice published in the *Gazette* under s. 432 of the NLC. Section 432 states:

> 432. Substituted service.
>
> (1) The Registrar, where he is satisfied that a notice affecting land in the State cannot be served personally or by post (either because the person to be served is evading service or for some other reason), may order service to be effected:
>
> (a) by affixing a copy of the notice in a conspicuous position-
>
> (i) on the land where possible; and
>
> (ii) on a court-house, mosque or penghulu's office or balai, or in a market or other public place, in the area in which the land is situated; and
>
> (b) **by publishing a copy of the notice in the *gazette*** and, if he thinks fit, in one or more of the newspapers circulating in the State. (emphasis added).

The wordings of s. 432 are clear. Where substitute service is to be effected, all of the requirements in sub paras. (a)(i), (a)(ii) and (b) of sub-s. 1 has to be complied with. See *Malayan Banking Berhad lwn. Pentadbir Tanah Daerah Batu Pahat & Satu Lagi* [2011] 1 LNS 307; [2011] 4 MLRH 314.

**[39]** The consequence of the *Gazette* is stated in ss. 18(2) and 18(3) of the Interpretation Acts 1948 And 1967 and read as follows:

> 18. (1) ....
>
> (2) Publication in the official *gazette* of Malaysia shall constitute sufficient notice of **any matter required to be published** in the *Gazette* by or under any federal law or required to be published in the Sabah Government *Gazette* or the Sarawak Government *Gazette* by or under any enactment of those States which has been declared to be a federal law.
>
> (3) Where any matter is of local application only and is issued under the authority of a State officer or any person in the State having authority to do so under federal law it shall constitute sufficient notice thereof if the matter is published in the official *gazette* of the State concerned.
>
> (emphasis added)

**[40]** In accordance with s. 97 NLC a note as to the service of the notice was endorsed on the title. The purpose of an endorsement on the title was clearly stated in the case of *Pow Hing and Anor v. Registrar of Titles, Malacca, Malacca* [1980] 1 LNS 120; [1981] 1 MLJ 155 as:

> to give notice to all and sundry with existing or prospective interests in the land in question that a forfeiture may be imminent in the event of non compliance by the registered proprietor with the notice of demand". See per Abdoolcader J (as he then was).

**[41]** Having examined the relevant *Gazette* Notification No. 1628 dated 15 August 2013, I agree with counsel for the appellant that the *gazette* number endorsed on the title to the said land refers to a completely different and unrelated lot. The respondent never refuted this fact. That being so I am of the view that the service of the Borang 6A notice as well as the endorsement on the title is defective. This would have the result of effectively rendering the whole forfeiture process flawed as well. The importance of compliance with the provisions of the NLC regarding the forfeiture of land for non-payment of rent had been stressed in the case of *Khoo Cheng & Ors v. Pentadbir Tanah Muar* [2008] 3 CLJ 534. Jeffery Tan J (as he then was) observed:

> Forfeiture of land for non-payment of rent **must comply with what are mandatory requirements** (see *Pow Hing & Anor v. Registrar of Titles, Malacca* [1980] 1 LNS 120; [1981] 1 MLJ 155, 158, where it was held by the Federal Court that conformance of s. 97(2) is mandatory and **non-compliance therewith would vitiate any subsequent forfeiture effected** in the event of failure by the registered proprietor to comply with the notice of demand). And in that order, the mandatory requirements are (i) the service of a notice of demand in Form 6A (s. 97(1)), (ii) a note or endorsement of the service of the Form 6A on the register document of title (s. 97(2)), (iii) an order declaring the land forfeit to the State Authority (s. 100), (iv) the publication of the notification of forfeiture in Form 8A in the *Gazette* (s. 130(1)), (v) the publication of copies of the Form 8A in accordance with the provisions of s. 433 (s. 130(2), and (vi) the registration of a memorial of the publication of copies of the Form 8A on the register document of title (s. 130(2)). (emphasis added)

**[42]** In referring to a *gazette* notification unrelated to the said land the respondent had not complied with, among others, ss. 97, 100 and 432 of the NLC. The order by the Land Administrator under s. 100 of the NLC together with the notice 8A as well as the endorsement on the title must be set aside as the *gazette* notification relates to the wrong lot and thus not in accordance with the law. In this case, it cannot be said that the *Gazette* notification constitutes "matter required to be published" as envisaged in s. 18 of the Interpretation Acts 1948 and 1967.

**[43]** I am supported on this point by the words enshrined in art. 13 of the Federal Constitution which reads as follows:

> 13. (1) No person shall be deprived of property save in accordance with law.
>
> (2) No law shall provide for the compulsory acquisition or use of property without adequate compensation.

**[44]** I now come to the undisputed fact that the RPT Tronoh and the water catchment had occupied part of the said land before the forfeiture notice was issued whereby such occupation was not taken into account in the Borang 6A and 8A issued by the respondent. The size of the said land had been reduced drastically when chunks of it were taken up by the RPT Tronoh and the water catchment. Thus, the total area of the said land was not that as stated in the 8A notice. The total area as stated in the 8A notice was 232.9974 hectares or 575 acres. The total land area had been reduced to only 119 hectares or 296.46 acres at the time of 8A notice was issued.

**[45]** On the assumption that the Borang 6A and 8A notices were issued in accordance with the law, the consequence of this is that the appellant is being demanded to pay for an area of the land that he had not been in possession.

**[46]** In this regard, I am of the view that not only was the respondent statutorily required to issue and serve the "Borang 8A" and "Borang 6A" notices, the respondent is also required to state the correct and accurate information pertaining to the land intended to be forfeited as well as the exact amount due to the respondent.

## Conclusion

**[47]** To conclude, I find sufficient reasons to set aside the order of the Land Administrator made under s. 100 of the NLC and the "Borang 8A" notice" issued under s. 130 of the NLC. I therefore allow this appeal and award cost of RM15,000 to the appellant.